

REMARKS/ARGUMENTS

Claims 1, 2, 6-22, 24-26 and 28-36 are pending in the application. Claims 1, 7, 12-22, 25, 26, and 28-36 are amended, no claims are cancelled, and no claims are added. The amendments to the claims as indicated herein do not add any new matter to this application.

CLAIM REJECTIONS--35 U.S.C. § 101

Claims 1, 2, 6-21 and 29-36 were rejected under 35 U.S.C. § 101 because the claimed invention allegedly lacks patentable utility. More specifically, the Office Action states that “the independent claims 1 and 13 recite only ‘obtaining a set of ... data’ and to obtain a set of ... data.’ Merely obtaining data (without a tangible result) is not deemed to be a useful process, machine, manufacture, or composition of matter as is required by statute.”

Independent claims 1 and 13 have been amended to include “wherein said particular file format enables playback parameter data to remain separate from waveform data during exchange of audio data.” The amendment identifies a useful aspect of the invention that is further described in Written Specification p. 28, line 13 – p. 29, line 1. An example is described where an author may want to exchange audio data in waveform data format along with the playback parameters to allow a recipient of the audio data to manipulate the playback parameters without having access to the encoded audio data that generated the piece of audio.

Furthermore, claims 1 and 13 recite “obtaining a set of ... data; storing the ...set as a component ...” When a set of data is obtained, the set of data is then *stored*. Storing data yields a tangible result and is thus useful. Independent claims 1 and 13, and thus dependent claims 2, 6-21, and 29-36, which depend upon and include the limitations of claims 1 and 13, do not lack

patentable utility and withdrawal of the rejection based upon 35 U.S.C. § 101 is respectfully requested.

CLAIM REJECTIONS--35 U.S.C. § 102

Claims 22, 24-26 and 28 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by ACID™ (ACID User Manual, Sonic Foundry, Europe. 1999; hereinafter “ACID”). This rejection is respectfully traversed.

Applicants respectfully traverse.

Each of the pending claims recites one or more elements that are not disclosed, taught, or suggested by the cited art.

Claim 22

Claim 22, as amended, recites:

A method for manipulating audio data comprising:
obtaining an audio manipulation request associated with an audio waveform;
determining that an audio file comprising sample data associated with said audio waveform also comprises data that sets forth a specific synthesis treatment to be used for processing sound for a given instrument, wherein said audio file specifies the instrument for which said specific synthesis treatment is to be used; and
in response to said audio manipulation request, **performing the requested audio manipulation and processing sound for said given instrument on a playback device using the specific synthesis treatment that is specified by said data, thereby overriding any synthesis treatment that the playback device would otherwise use for the given instrument.** (emphasis added)

At least the above-bolded portions of Claim 22 are not disclosed, taught, or suggested by ACID.

Claim 22, requires, among other things, **“performing the requested audio manipulation and processing sound for said given instrument on a playback device using the specific**

synthesis treatment that is specified by said data, thereby overriding any synthesis treatment that the playback device would otherwise use for the given instrument” (emphasis added).

This limitation is not taught or disclosed by *ACID*. The Office Action states that this limitation is disclosed as part of envelope data that may include adjusting tempo or volume. However, manipulating audio envelopes is not the same as specific synthesis treatment. Rather, specific synthesis treatment is used as “a normalizing component to ensure that a synthesized instrument or sound is accurately rendered regardless of what type or brand of synthesizer or player is used.” (*Written Specification*, p. 24, lines 5-7). This is so that different synthesizers and players do not render the same instrument in a slightly different manner.

In *ACID*, manipulating audio data through envelopes allows a user to create fades, apply panning, and adding effects. *ACID*, p. 54, second paragraph. In Claim 22, the audio manipulation is to perform on a playback device so that the sound from the playback device is the same, regardless of which playback device is used. This is emphasized with the limitation “**thereby overriding any synthesis treatment that the playback device would otherwise use for the given instrument.**” *ACID* simply does not teach or describe the specific synthesis treatment in Claim 22 because the envelopes, as described in *ACID*, do not “**perform the requested audio manipulation and processing sound for said given instrument on a playback device ...thereby overriding any synthesis treatment that the playback device would otherwise use for the given instrument.**” Thus, the limitation is not taught or disclosed in *ACID*.

Furthermore, Claim 22 recites “**in response to said audio manipulation request, performing the requested audio manipulation and processing sound for said given instrument on a playback device using the specific synthesis treatment that is specified by said data.**” The audio manipulation request and specific synthesis treatment are two separate items

to process the sound. First, audio manipulation entails changing the audio data itself by changing a note in the composition (*Written Specification*, p. 33, line 5). Synthesis treatment data ensures that a synthesized instrument is accurately rendered (*Written Specification* p. 24, lines 1-6). The Office Action alleges that audio manipulation is altering volume, pan and effects (*ACID*, p. 54). Then the Office Action analogizes envelope data to specific synthesis treatment. However, according to *ACID*, envelope data *is* altering volume, pan, and effects. Thus, the Office Action is actually alleging that the sound is processed using just the envelope two separate times. Claim 22 recites processing by the audio manipulation request *and* the specific synthesis treatment, a limitation not taught or disclosed by *ACID*.

In addition, the envelope in *ACID* does not alter the notes in the audio itself, just aspects of the sound, such as volume, panning, and effects. This is a further indication that the audio manipulation request is not taught or disclosed as the envelope in *ACID*, much less that the sound is processed by the audio manipulation request *and* the specific synthesis treatment.

As at least one element recited by Claim 22 is not disclosed, taught, or suggested by *ACID*, it is respectfully submitted that Claim 22 is patentable over the cited art and is in condition for allowance.

Claim 25

Independent Claim 25 includes the same limitations as recited in Claim 22, except Claim 25 is written in computer-readable storage medium form. As a result, the arguments presented for Claim 22 above also apply to Claim 25. As *ACID* fails to teach or disclose every element of Claim 22, *ACID* also fails to teach or disclose every element of Claim 25. The rejection of Claim 25 is traversed and reconsideration of the rejection on Claim 25 is respectfully requested.

Claim 26

Claim 26 recites:

A file stored on a computer-readable storage medium, said file containing both

(a) sample data associated with an audio waveform; and

(b) data that sets forth a specific synthesis treatment to be used for processing a given sound. (emphasis added)

At least the above-bolded portion of Claim 26 is not disclosed, taught, or suggested by *ACID*.

Claim 26 recites that “**a file... said file containing both (a) sample data associated with an audio waveform; and (b) data that sets forth a specific synthesis treatment.**” Both data associated with an audio waveform *and* data that sets forth a specific synthesis treatment are contained in *a file*. In the previous Response to Office Action, Applicants stated that “One may store the *ACID* project file with external audio, but this merely keeps the project file with the external file in the *same folder, not one file* as recited in Claim 26.” The current Office Action states under “Response to Arguments,” that “While the *ACID* project file may contain other files, the project file is still a file.” In *ACID*, p. 67 under “*ACID* Project (*.acd),” the “*ACID* project file contains all of the information about a single object... This type of file does not contain any audio, only references to audio files.” Thus the sample data associated with an audio waveform is not contained in the *ACID* Project file. Under “*ACID* Project with external audio (*.acd),” *ACID* states “By saving a project with external audio, all of the audio that is being used in the project is copied into *the same folder* as the project file.” (emphasis added). Applicants wish to stress that the audio files are not being stored in the project file, but the same folder as the project file. Being stored in the same folder as a file is not the same as being stored in the file. Thus the limitation of storing both sample data associated with an audio waveform and data that sets forth a specific synthesis

treatment is not disclosed. As at least one element recited by Claim 26 is not disclosed, taught, or suggested by *ACID*, it is respectfully submitted that Claim 26 is patentable over the cited art and is in condition for allowance.

DEPENDENT CLAIMS

Claim 24 is a dependent of independent Claim 22. Claim 28 is a dependent of independent Claim 26. These dependant claims also include the limitations of claims upon which they depend. These dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable. Thus reconsideration of the rejection on these claims is respectfully requested.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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